contesting the ADR decision with respect to the claim or claims than the ADR decision, the court shall order the contesting party to pay the costs and expenses of the opposing party, including attorneys' fees, incurred with respect to the claim or claims after the date of the ADR decision, unless the court finds that requiring the payment of such costs and expenses would be manifestly unjust.

(3) LIMITATION.—Attorneys' fees awarded under this subsection shall be in an amount reasonably attributable to the claim or claims involved, calculated on the basis of an hourly rate of the attorney, which may not exceed that which the court considers acceptable in the community in which the attorney practices law, taking into account the attorney's qualifications and experience and the complexity of the case. Attorneys' fees under this subsection may not exceed—

(A) the actual cost incurred by the party for attorneys' fees payable to an attorney for services in connection with the claim or claims; or

(B) if no such cost was incurred by the party due to a contingency fee agreement, a reasonable cost that would have been incurred by the party for noncontingent attorneys' fees payable to an attorney for services in connection with the claim or claims.

(g) APPLICABILITY.—The requirements of this section shall apply only to each covered health care malpractice claim arising out of an event (or events) occurring on or after the date that is 270 days after the date of enactment of this Act.

SEC. __05. BASIC REQUIREMENTS FOR STATE ALTERNATIVE DISPUTE RESOLUTION SYSTEMS.

The alternative dispute resolution system of a State meets the requirements of this section if the system—

(1) applies to all covered health care malpractice claims under the jurisdiction of the courts of such State;

(2) requires that a written opinion resolving the dispute be issued not later than 180 days after the date on which each party against whom the claim is filed has received notice of the claim (other than in exceptional cases for which a longer period is required for the issuance of such an opinion), and that the opinion contain—

(A) findings of fact relating to the dispute; and

(B) a description of the costs incurred in resolving the dispute under the system (including any fees paid to the individuals hearing and resolving the claim), together with an appropriate assessment of the costs against any of the parties;

(3) requires individuals who hear and resolve claims under the system to meet such qualifications as the State may require (in accordance with regulations of the Attorney General);

(4) is approved by the State or by local governments in the State;

(5) with respect to a State system that consists of multiple dispute resolution procedures—

(A) permits the parties to a dispute to select the procedure to be used for the resolution of the dispute under the system; and

(B) if the parties do not agree on the procedure to be used for the resolution of the dispute, assigns a particular procedure to the parties;

(6) provides for the transmittal to the State agency responsible for monitoring or disciplining health care professionals and health care providers of any findings made under the system that such a professional or provider committed malpractice, unless, during the 90-day period beginning on the date the system resolves the claim against the professional or provider, the professional or provider brings an action contesting the decision made under the system; and

(7) provides for the regular transmittal to the Administrator of the Agency for Healthcare Research and Quality of information on disputes resolved under the system, in a manner that assures that the identity of the parties to a dispute shall not be revealed.

SEC. __06. CERTIFICATION OF STATE SYSTEMS; APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.

(a) CERTIFICATION.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act and periodically thereafter, the Attorney General, in consultation with the Secretary, shall determine whether the alternative dispute resolution systems of each State meet the requirements of this title.

(2) BASIS FOR CERTIFICATION.—The Attorney General shall certify the alternative dispute resolution system of a State under this subsection for a calendar year if the Attorney General determines under paragraph (1) that such system meets the requirements of section __05.

(b) APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.—

(1) ESTABLISHMENT AND APPLICABILITY.—Not later than 270 days after the date of enactment of this Act, the Attorney General, in consultation with the Secretary, shall establish by rulemaking an alternative Federal ADR system for the resolution of covered health care malpractice claims during a calendar year, to be used for a calendar year in States that do not have an alternative dispute resolution system that is certified under subsection (a) for such year.

(2) REQUIREMENTS FOR SYSTEM.—Under the alternative Federal ADR system established under paragraph (1)—

(A) paragraphs (1), (2), (6), and (7) of section __05 shall apply to claims brought under such system;

(B) the claims brought under such system shall be heard and resolved by medical and legal experts appointed as arbitrators by the Attorney General, in consultation with the Secretary; and

(C) with respect to a State in which such system is in effect, the Attorney General may (at the request of such State) modify the system to take into account the existence of dispute resolution procedures in the State that affect the resolution of health care malpractice claims.

(3) TREATMENT OF STATES WITH ALTERNATIVE SYSTEM IN EFFECT.—If the alternative Federal ADR system established under this subsection is applied with respect to a State for a calendar year such State shall reimburse the United States, at such time and in such manner as the Secretary may require, for the costs incurred by the United States during such year as a result of the application of the system with respect to the State.

SEC. __07. GAO STUDY OF PRIVATE LITIGATION INSURANCE.

The Comptroller General of the United States shall—

(1) undertake a study of the effectiveness of private litigation insurance markets, such as those in the United Kingdom and Germany, in providing affordable access to courts, evaluating the merit of prospective claims, and ensuring that prevailing parties in ''loser pays'' systems are reimbursed for attorneys' fees; and

(2) not later than 270 days after the date of enactment of this Act, submit to Congress a report describing the results of such study.

SA 2830. Mr. BROWNBACK (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 143 of the amendment, after line 7, add the following:

SEC. 10011. CERTIFICATION.

(a) IN GENERAL.—This title (other than this section), and the amendments made by this title, shall become effective only if the Secretary of Health and Human Services certifies to Congress that the implementation of this title, and the amendments made by this title, will—

(1) pose no additional risk to the public's health and safety; and

(2) result in a significant reduction in the cost of covered products to the American consumer.

(b) EFFECTIVE DATE.—Notwithstanding any other provision of this title, or of any amendment made by this title—

(1) any reference in this title, or in such amendments, to the date of enactment of this title shall be deemed to be a reference to the date of the certification under subsection (a); and

(2) each reference to ''January 1, 2012'' in section 10006(c) shall be substituted with ''90 days after the effective date of this title''.

SA 2831. Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 14 and 15, insert the following:

SEC. 2008. NONAPPLICATION OF ANY MEDICAID ELIGIBILITY EXPANSION UNTIL REDUCTION IN MEDICAID FRAUD RATE.

Notwithstanding any other provision of this Act, with respect to a State, any provision of this Act or an amendment made by this Act that imposes a federally-mandated expansion of eligibility for Medicaid shall not apply to the State before the date on which the State Medicaid Director certifies to the Secretary of Health and Human Services that the Medicaid payment error rate measurement (commonly referred to as ''PERM'') for the State does not exceed 5 percent.

SA 2832. Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 2074, after line 25, add the following: